

REFERENCE TITLE: state employees; right to representation

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2033

Introduced by
Representatives Thrasher, Sinema: Campbell CH, Chabin, McClure, Schapira,
Ulmer, Senator O'Halleran

AN ACT

AMENDING TITLE 38, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 9; RELATING TO STATE EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 38, Arizona Revised Statutes, is amended by adding
3 chapter 9, to read:

CHAPTER 9

STATE EMPLOYEES

ARTICLE 1. GENERAL PROVISIONS

38-1201. State employees; right to representation; definitions

8 A. IF AN EMPLOYER INTERVIEWS AN EMPLOYEE AND THE EMPLOYEE REASONABLY
9 BELIEVES THAT THE INTERVIEW COULD RESULT IN DISCIPLINARY ACTION, THE EMPLOYEE
10 MAY REQUEST TO HAVE A REPRESENTATIVE OF THE EMPLOYEE'S CHOICE PRESENT AT NO
11 COST TO THE EMPLOYER DURING THE INTERVIEW. THE EMPLOYEE SHALL SELECT A
12 REPRESENTATIVE WHO IS AVAILABLE ON REASONABLE NOTICE SO THAT THE INTERVIEW IS
13 NOT UNREASONABLY DELAYED. THE REPRESENTATIVE SHALL PARTICIPATE IN THE
14 INTERVIEW ONLY AS AN OBSERVER. UNLESS AGREED TO BY THE EMPLOYER, THE
15 REPRESENTATIVE SHALL BE FROM THE SAME AGENCY OR A UNION REPRESENTATIVE AND
16 SHALL NOT BE AN ATTORNEY, EXCEPT IF REQUESTED BY THE EMPLOYEE. THE EMPLOYEE
17 SHALL BE PERMITTED REASONABLE BREAKS OF LIMITED DURATION DURING ANY INTERVIEW
18 FOR TELEPHONIC OR IN PERSON CONSULTATION WITH OTHERS, INCLUDING AN ATTORNEY,
19 WHO ARE IMMEDIATELY AVAILABLE. AN EMPLOYER SHALL NOT DISCIPLINE, RETALIATE
20 AGAINST OR THREATEN TO RETALIATE AGAINST AN EMPLOYEE FOR REQUESTING THAT A
21 REPRESENTATIVE OR AN ATTORNEY BE PRESENT OR FOR ACTING AS THE REPRESENTATIVE
22 OF AN EMPLOYEE PURSUANT TO THIS SECTION.

23 B. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO AN INTERVIEW OF AN
24 EMPLOYEE THAT IS:

25 1. IN THE NORMAL COURSE OF DUTY, COUNSELING OR INSTRUCTION OR AN
26 INFORMAL VERBAL ADMONISHMENT BY, OR OTHER ROUTINE OR UNPLANNED CONTACT WITH,
27 A SUPERVISOR.

28 2. PRELIMINARY QUESTIONING TO DETERMINE THE SCOPE OF THE ALLEGATIONS
29 OR IF AN INVESTIGATION IS NECESSARY.

30 3. CONDUCTED IN THE COURSE OF A CRIMINAL INVESTIGATION.

31 C. FOR THE PURPOSES OF THIS SECTION:

32 1. "DISCIPLINARY ACTION" MEANS THE DISMISSAL, DEMOTION OR SUSPENSION
33 OF AN EMPLOYEE THAT IS AUTHORIZED BY STATUTE THAT COULD CAUSE A LOSS OF PAY
34 FOR THE EMPLOYEE.

35 2. "EMPLOYEE" MEANS AN INDIVIDUAL WHO IS EMPLOYED BY THIS STATE,
36 EXCEPT A LAW ENFORCEMENT OFFICER, AS DEFINED IN SECTION 38-1101, WHO IS
37 EMPLOYED BY THIS STATE.

38-1202. Application as to prior agreements

39 THIS ARTICLE DOES NOT PREEMPT AGREEMENTS THAT SUPPLANT, REVISE OR
40 OTHERWISE ALTER THIS ARTICLE, INCLUDING PREEXISTING AGREEMENTS BETWEEN THE
41 EMPLOYER AND THE EMPLOYEE OR THE EMPLOYEE'S LAWFUL REPRESENTATIVE
42 ASSOCIATION.